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March 10, 2016

Secretary  
Federal Maritime Commission  
800 N. Capitol Street, NW  
Washington, DC 20573-0001

Dear Secretary of the Commission:

Please find enclosed an original signed version and six copies of the public version of the Parties' Joint Submission in Support of Consent Motion to Dismiss with Prejudice and Joint Motion to Maintain Confidentiality of Settlement Agreement, to be filed in *Combustion Store Limited v. UniGroup*, Docket No. 15-02. The confidential version will be submitted directly to Chambers. Please return one file stamped copy of the filing via the enclosed prepaid envelope.

Please do not hesitate to contact me with any questions.

Best Regards,

Thompson Coburn LLP

A handwritten signature in black ink, appearing to be 'M. Loughran Potter', written over a horizontal line.

By  
M. Loughran Potter

MLP/baw

Enclosures

# PUBLIC VERSION

## BEFORE THE FEDERAL MARITIME COMMISSION

COMBUSTION STORE LIMITED,	)	
	)	
Complainant,	)	
	)	
v.	)	Docket No. 15-02
	)	
UNIGROUP WORLDWIDE, INC.,	)	
	)	
Respondent.	)	
_____	)	

### **Joint Submission in Support of Consent Motion to Dismiss with Prejudice and Joint**

### **Motion to Maintain Confidentiality of Settlement Agreement**

Consistent with Your Honor's March 8, 2016 Order to Supplement the Record, the Parties respectfully state as follows:

1. The Parties have agreed to and executed a Release of All Claims and Indemnity Agreement (the "Settlement Agreement"), fully resolving this dispute.
2. On March 7, 2016, Complainant Combustion Store Limited filed a Consent Motion to Dismiss with Prejudice, asking that this action be dismissed with prejudice immediately.
3. On March 8, 2016, Your Honor entered an Order to Supplement the Record, requiring the Parties to submit a joint memorandum and a copy of the Settlement Agreement, pursuant to Commission Rule 72 and consistent with the Commission's long-standing history of reviewing settlement agreements. *See Streak Prods., Inc. v. UTi, United States, Inc.*, FMC No. 13-04 (ALJ Aug. 22, 2014) (Order Staying Briefing Schedule and Requiring Supplements to Record) (internal citations omitted).

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4. Attached as Exhibit 1 is a copy of the Parties' Settlement Agreement, as executed by each Party. Consistent with the Initial Order in this action, the Parties submit both a "public" and "private" version of this filing.

5. The Parties jointly submit that the Settlement Agreement is consistent with the factors outlined in the Commission's *Old Ben Coal Co. v. Sea-Land Serv., Inc.* decision, 18 S.R.R. 1085, 1091 (ALJ 1978), and that the agreement should therefore be approved.

6. The Settlement Agreement was signed by the Parties after each Party had the opportunity to consult counsel.

7. The Settlement Agreement is the result of each Party's fair and considered judgment of the merits of their positions in this matter, each Party's desire to avoid unnecessary litigation costs and expense, and the desire to avoid the risks inherent to litigation generally. *Streak Prods., Inc. v. UTi, United States, Inc.*, FMC No. 13-04, at \*2 (ALJ Sept. 10, 2014) ("*Streak Products II*").

8. The settlement does not contravene law or public policy. It is neither an unjust nor discriminatory device and it has no adverse effect on any third parties or on the market for transportation services. *Id.* The settlement is entirely consistent with the Shipping Act.

9. The Settlement Agreement is not the result of "fraud, duress, undue influence, mistake or other defects which might make it unapprovable despite the strong policy of the law encouraging approval of settlements[.]" *Old Ben Coal* at 1093.

10. The terms of the Parties' Settlement Agreement are confidential.

11. The Parties jointly seek an order maintaining the confidentiality of the Settlement Agreement. "The Commission has a history of permitting agreements that settle private complaints brought pursuant to 46 U.S.C. § 41301 to remain confidential." *Streak Products II*, at

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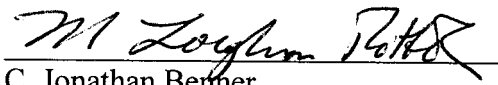
\*4. ““If parties wish to keep the terms of their settlement agreements confidential, the Commission, as well as the courts, have honored such requests.”” *Id.* (citing *Al Kogan v. World Express Shipping, Transp. and Forwarding Servs., Inc.*, 29 S.R.R. 68, 70 n.7 (ALJ 2000) (citations omitted), admin. final Jan. 17, 2001; *see also Am. Stevedoring, Inc. v. The Port Auth. of New York and New Jersey*, FMC No. 10-05 (ALJ Oct. 27, 2011), admin. final (FMC Dec. 2, 2011) (notice not to review); *Marine Dynamics v. RTM Line, Ltd.*, 27 S.R.R. 503, 504 (ALJ 1996), admin. final (FMC Mar. 14, 1996); *Int’l Assoc. of NVOCCs v. Atl. Container Line*, 25 S.R.R. 1607, 1609 (ALJ 1991), admin. final (FMC Sept. 6, 1991)). Similarly, the Federal Rules permit the entry of a protective order limiting the disclosure of confidential commercial information under a showing of good cause. *See* Fed. R. Civ. P. 26(c)(1)(G).

12. The settlement agreement reflects confidential business information about the Parties, particularly with regard to UniGroup’s business practices in settling commercial disputes. The disclosure of this information would be to UniGroup’s detriment in future litigation matters. UniGroup believes that no one will be harmed by the entry of this order and the public interest in disclosure is limited. This demonstrates the good cause necessary to support the Parties’ joint motion to maintain the Settlement Agreement’s confidentiality.

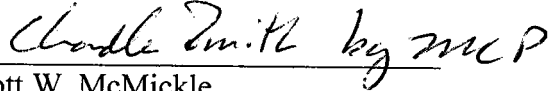
WHEREFORE, the Parties jointly request that the Release of All Claims and Indemnity Agreement be approved, that this action be dismissed with prejudice, that the Release of All Claims and Indemnity Agreement be sealed, and for such further relief as this Court deems just and proper.

Respectfully Submitted, this 10<sup>th</sup> of March 2016, by:

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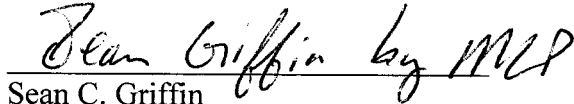


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## **EXHIBIT 1**

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## RELEASE OF ALL CLAIMS AND INDEMNITY AGREEMENT

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